

STANDING ORDER ON SOCIALLY DISTANCED JURY TRIALS FOR CASES ASSIGNED TO CR302

The “strike” or “rack 14” method, which selected jurors in panels of four from a group of fourteen, was often used in CR302 before the outbreak of the Covid-19 pandemic. As the State of Illinois has currently recommended “social distancing” in all public gatherings, and since the jury boxes on the 300 level of the Michael J. Sullivan Judicial Center do not allow for such social distancing, the courts are required to adjust voir dire and trial practices to accommodate these new procedures. The actual number of trials per week may be limited and prioritized, and the court reserves the right, pursuant to Supreme Court M.R. Orders and Guidelines, to make relevant findings regarding time dependent trial issues.

Supreme Court Rule 434(a) states, in pertinent part, as follows:

“In criminal cases the parties shall pass upon and accept the jury in panels of four, commencing with the State, *unless the court, in its discretion directs otherwise....*”

Therefore, this court in its discretion, *and for so long as social distancing is required or recommended by the State of Illinois or until further court order*, will set the following methods for the selection and seating of jurors and the public during voir dire and during actual trial. The method selected and the initial venue will be announced to litigants prior to the commencement of voir dire.

A. Voir Dire in Courtroom Venue, Actual Trial in Socially Distanced Venue:

“Strike Full Panel” Voir Dire

1) For this method of voir dire, **potential jurors will initially be brought into the assigned trial court from the jury assembly room in groups of 8-14 as determined by the court, and in the numerical order assigned to them by the Jury Commission.** To maintain social distance, some potential jurors will initially be seated in marked seats on a staggered basis in the jury box, while others will be seated in marked, staggered seats in the gallery or elsewhere in the courtroom. After seating in assigned seats, potential jurors will then be advised and questioned by the court.

Public seating during voir dire and trial may be limited as directed by the court. Public spectators may be limited to press or members of the immediate family of participants, or others in the discretion of the court, which shall consider the available seating in the venue. Public spectators of voir dire and trial will be directed to assigned seats, and shall not be seated while court is in session.

2) After questioning, and pursuant to Supreme Court Rule 431, the court will permit the parties, commencing with the State, to ask additional questions that are:

- a) **“Appropriate”**;
- b) Not directly or indirectly **concerning matters of law** or instructions;
- c) **Limited by the court to a “reasonable time”** based upon the court’s examination, the complexity of the case, and the nature of the charges.

3) After examination of potential jurors by the court and the parties, the parties may exercise challenges pursuant to Supreme Court Rule.

a) Challenges will be made to the entire group of potential jurors then in the venue, and will be considered in the numerical order in which the potential jurors were first assigned, brought into court, and seated.

b) The parties will alternate commencing selection and making challenges to the potential jurors, with the State proceeding first on the entire first group.

c) Once a litigant approves the selection of a juror, there will be no “back strikes”. Challenges for cause may be made outside the presence of the jury, in the discretion of the court.

d) Selected jurors and alternates will be removed from the courtroom, assembled in a socially distanced holding area, and advised not to discuss any improper matters. Dismissed jurors will be returned to the jury assembly area for further instructions.

4) The number of peremptory challenges each party may exercise is set by Supreme Court rule, and shall remain consistent with all other methods of jury selection.

5) After exercise of challenges to the first group of potential jurors, additional groups will be brought into the courtroom, seated, questioned and challenged in like manner until all trial jurors and alternates are selected.

6) To accommodate juror social distancing for the actual trial, *the actual trial venue may be different from the assigned courtroom venue used to select jurors.* Once all trial jurors and alternates are selected, the court will announce the location of the trial venue. Parties, court personnel, and selected jurors shall assemble in the actual trial venue to commence further proceedings.

7) During voir dire and trial, breaks, required sidebars outside the presence of the jury, and deliberations may be conducted, in the discretion of the court, by allowing the jury to remain in the venue's facilities and having the parties, litigants and court personnel vacate those facilities for the duration of the break, sidebar, or deliberation period. The court may also designate another venue that would maintain social distance for such activities.

B. Voir Dire in Larger Venue with Appropriate Social Distance:

"Strike Half Panel" Voir Dire

1) For this method of voir dire, sufficient space will be available in the venue itself to seat all 25-30 jurors of a full voir dire panel in a socially distanced manner. The full venire panel will be seated in the order assigned by the Jury Commission, starting with the front of the venue. The court will commence admonishments to the entire venire, **and then examine approximately the first half of the total venire in the numerical order assigned to the potential jurors by the Jury Commission.**

Public seating during voir dire and trial may be limited as directed by the court. Public spectators may be limited to press or members of the immediate family of participants, or others in the discretion of the court, which shall consider the available seating in the venue. Public spectators of voir dire and trial will be directed to assigned seats, and shall not be seated while court is in session.

2) After questioning, and pursuant to Supreme Court Rule 431, the court will permit the parties, commencing with the State, to ask additional questions that are:

- a) **"Appropriate";**
- b) Not directly or indirectly **concerning matters of law** or instructions;
- c) **Limited by the court to a "reasonable time"** based upon the court's examination, the complexity of the case, and the nature of the charges.

3) After examination of potential jurors by the court and the parties, the parties may exercise challenges pursuant to Supreme Court Rule.

a) Challenges will be made to the entire group of potential jurors who have been questioned by the court and the parties, (half of the entire panel) and will be considered in the numerical order in which the potential jurors were assigned and seated.

b) The parties will alternate commencing selection and making challenges to the potential jurors, with the State proceeding first on the entire first group.

- c) Once a litigant approves the selection of a juror, there will be no "back strikes". Challenges for cause may be made outside the presence of the jury, in the discretion of the court.
- d) Selected jurors and alternates will be removed from or separated within the venue, assembled in a socially distanced holding area, and advised not to discuss any improper matters. Dismissed jurors will be returned to the jury assembly office for further instructions.

4) The number of peremptory challenges each party may exercise is set by Supreme Court rule, and shall remain consistent with all other methods of jury selection.

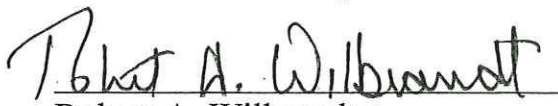
5) After exercise of challenges to the first part of the full venire, the remaining part of the full venire will be examined in their previously assigned numerical order and challenged in like manner until all trial jurors and alternates are selected.

6) Once all trial jurors and alternates are selected, **the court will commence the proceedings in either the same venue where voir dire was conducted, or a different venue as specified by the court that would maintain social distancing.**

7) During voir dire and trial, breaks, required sidebars outside the presence of the jury, and deliberations may be conducted, in the discretion of the court, by allowing the jury to remain in the venue's facilities and having the parties, litigants and court personnel vacate those facilities for the duration of the break, sidebar, or deliberation period. The court may also designate another venue that would maintain social distance for such activities.

Sources: See *People v. Moss* 108 Ill.2d 270 (1985); *People v. McCormick*, 328 Ill.App.3d 378 (2nd Dist. 2002) at p. 383; Illinois Supreme Court Rules 431 and 434, Illinois Supreme Court 2020 M.R. Orders and Guidelines for Resuming Judicial Operations. The court reserves the right to modify this order upon notice to litigants.

Enter: 26 May 2020


Robert A. Wilbrandt,
Circuit Judge, Criminal Division
22nd Judicial Circuit
Presiding Judge, Courtroom 302